IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

OP.No. 6536 of 2003(C)

PETITIONER:

THANKACHAN CHACKO,
SENIOR ASSISTANT, UNITED INDIA INSURANCE COMPANY LIMITED, ONE MAN OFFICE, K.R.M.TOWERS, ADOOR - 691 523.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:

1. **THE REGIONAL MANAGER, UNITED INDIA INSURANCE COMPANY LIMITED, VANIYAPURACKAL BUILDINGS, TALUK OFFICE JUNCTION, KOLLAM.**
2. **SRI.R.RADHAKRISHNAN, BRANCH MANAGER, UNITED INDIA INSURANCE COMPANY LTD, VANIYAPURACKAL BUILDING, TALUK OFFICE JUNCTION, KOLLAM.**
3. **SRI.P.T.SAHADEVAN, SENIOR ASSISTANT, UNITED INDIA INSURANCE COMPANY LTD., ONE MAN OFFICE, VAIKOM.**
4. **SRI.V.K.GOPI, SENIOR ASSISTANT, UNITED INDIA INSURANCE COMPANY LTD, REGIONAL OFFICE, 'SARANYA', HOSPITAL ROAD, ERNAKULAM - 11.**
5. **SRI.P.V.ASOKAN, SENIOR ASSISTANT, UNITED INDIA INSURANCE COMPANY LTD, DIVISIONAL OFFICE, PARK HOUSE, ROUND NORTH, TRICHUR - 680 001.**
6. **SRI.M.SREEKUMAR WARRIER, SENIOR ASSISTANT, UNITED INDIA INSURANCE COMPANY LTD., REGIONAL OFFICE, 'SARANYA', HOSPITAL ROAD, ERNAKULAM - 11.**

BY ADV. SRI.N.NANDAKUMARA MENON for R1
SRI.K.VINODKUMAR
SRI.P.K.MANOJKUMAR
SMT.LAKSHMI.N.MENON

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.6536/2003 C

ORDER ON C.M.P.NO.11506/2003 IN O.P.NO.6536/2003 C

DISMISSED

25/06/2007 **SD/- K.BALAKRISHNAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF NOTICE NO.CNRO/PER/P.10/CIR/003/2003 DTD. 17/01/2003 ISSUED BY R1.**

EXT.P2: **COPY OF LETTER NO.CNRO:PER:P.10.150.2003 DTD. 29/01/03 BY THE DEPUTY MANAGER.**

EXT.P3: **COPY OF NOTICE NO.CNRO:PER:P-10:CIR:012:03 DTD. 17/02/2003 BY R3.**

EXT.P4: **COPY OF THE CONFIDENTIAL REPORT FORM.**

/TRUE COPY/

KSS

K. BALAKRISHNAN NAIR, J.

O.P. No.6536 of 2003 (C)

Dated this the 25th June, 2007.

JUDGMENT

The petitioner is a Senior Assistant, working under the respondents. He is aggrieved by the promotion given to respondents 2 to 6, in preference to him, to the post of Assistant Administrative Officer. The facts of the case are the following. The feeder category for promotion to the post of Assistant Administrative Officer is Senior Assistant. As per the regulations, the method of appointment is by selection. Selection shall be based on seniority, qualifications, work report and interview. There were 11 vacancies in the cadre of Assistant Administrative Officer. When the first respondent published Ext.P1 list of candidates eligible to be considered for promotion, the petitioner is rank No.15. The list is arranged having regard to the total marks scored on two counts, viz. Service seniority and qualifications. The petitioner got 14 marks for service seniority and 22 marks for qualifications, making his total score 36. He points out that Mr.V.K.Gopi, ranked as No.22 in Ext.P1, is junior to him and he got only 34 marks. Mr.M.Sreekumar Varrier, rank No.33, is also

junior to him in service. But, when the final selection list was published by Ext.P3, those two juniors and two others, who were lower in position in Ext.P1 list, were seen included. So, this writ petition is filed, challenging Ext.P3. According to him, seniority has been overlooked and the selection procedure was not proper. So, the appointment of the party respondents violates his fundamental rights under Articles 14, 16 and 21 of the Constitution of India.

2. The respondents have filed counter affidavit, stating that the promotions are made based on the marks obtained for seniority, qualifications, work records and interview. The marks allotted for seniority were 40, for qualifications 25, for work records 25 and for interview 10. The total marks are 100. The first respondent submitted that when marks for work records and interview were added, the petitioner's position went down and, therefore, he was not selected. For considering work records, the cut off date fixed was 3.12.2001. The performance upto that date alone was assessed as per the available records.

3. The petitioner has filed a reply affidavit dealing with the averments in the counter affidavit.

4. Heard counsel on both sides. Going by the materials produced in this writ petition, it is to be found that the selection was made objectively, based on the marks awarded under various parameters, as per the relevant regulations. The petitioner has no allegations of mala fides against the first respondent. So, it can be assumed that the procedure as per the rules was followed properly and since the petitioner did not get the required marks, he did not find a place in Ext.P3.

5. The first respondent, in the counter affidavit filed by it, has stated that against Ext.P3 the petitioner has invoked the statutory remedy by filing a review petition. The learned counsel for the petitioner submitted that so far the said review petition has not been disposed of. If the review petition filed by the petitioner is still pending, the competent authority of the United India Insurance Company Ltd., shall consider and pass orders thereon within two months from the date of production of a copy of this judgment and a copy of the same shall be served on the petitioner. Needless to

say that if orders have already been passed in the review petition, a copy of the same shall be served on him on production of a copy of this judgment.

K. BALAKRISHNAN NAIR,
JUDGE.

Vav.

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.6536 of 2003 (C)

JUDGMENT

Dated : 25th June, 2007.